

Court No. - 53

Case :- MATTERS UNDER ARTICLE 227 No. - 10333 of 2023

Petitioner :- Saleem Alias Mohd.Saleem

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Bhaskar Bhadra

Counsel for Respondent :- G.A.

Hon'ble Syed Aftab Husain Rizvi,J.

This petition under Article 227 of the Constitution of India has been filed against judgement and order dated 26.06.2023 passed by Additional District and Sessions Judge, Court No.9, Bareilly in Criminal Revision No.161 of 2022 (Saleem Versus Khalil Ahmed and others) arising out of Case No.2067 of 2016 under Sections 323, 504 and 506 I.P.C., Police Station Nawabganj, District Bareilly.

The record reveals that opposite party no.2 filed complaint against the petitioners and five others under Section 406, 323, 504, 506, 427 and 452 I.P.C. After inquiry under Section 200 and 202 Cr.P.C., learned Judicial Magistrate, Nawabganj, District Bareilly, vide order dated 27.05.2017, summoned the petitioner and two others, namely, Mohd. Arif alias Monu and Mohd. Asif for the offence under Section 323, 504 and 506 I.P.C. The petitioner filed Criminal Revision No.161 of 2022 against the summoning order which has been dismissed by the impugned order dated 26.06.2023.

Learned counsel for the petitioner submitted that marriage of Hina Parveen, daughter of petitioner was solemnized with opposite party no.2/complainant Khalil Ahmed. Some matrimonial dispute arises between the parties and Hina Parveen, wife of petitioner, lodged an F.I.R. against opposite party no.2 and his family members for the offence under Section 504, 506, 498-A, 376-D I.P.C. and $\frac{3}{4}$ of Dowry Prohibition Act and after investigation charge-sheet has also been submitted. In counter-blast of it, the opposite party no.2 on false and concocted version has filed present complaint. Learned Magistrate without proper application of judicial mind, in a casual manner, has passed the summoning

order. Learned revisional court has also not appreciated the facts and material on record and has committed illegality in dismissing the revision. Learned counsel for the petitioner has, however, admitted that petitioner and other co-accused have already got bail in criminal case.

As the petitioner and two other accused have been enlarged on bail and the proceeding of complaint case is going on, the petitioner and co-accused have an opportunity to move discharge application at an appropriate stage.

With the aforesaid observation, the petition under Article 227 of the Constitution of India stands disposed off.

Order Date :- 24.11.2023

MN/-